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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91201001
Party	Defendant Yael Mamroud Cummins
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Attachments	answer to opposition.pdf ( 6 pages )(401918 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of application serial no. 85007380  
For the trademark Vitamine & Sea (V&S)  
Published in the official Gazette on April 5th 2011

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VICTORIAS SECRET STORES BRAND	:	
MANAGEMENT, INC.,	:	
	:	
Opposer,	:	
	:	
V.	:	Opposition No. 91201001
	:	
Yael Mamroud / Cummins (on behalf of Vitamine & Sea)	:	
	:	
Applicant.	:	
	:	

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**ANSWER TO OPPOSITION:**

1. Opposer has been using the mark “VS” and its formatives since at least as early as September 1991.

- Applicant Denies

2. Opposer owns all rights, title and interest in and to trademark registrations and applications incorporating the term VS including collectively the “VS” marks.

- Applicant Denies

3. A copy of the UNITED STATES PATENT AND TRADE MARK OFFICE (USPTO) records related to Opposer’s registrations are attached hereto and incorporated herein by reference as Opposers Exhibit A. Opposer’s registrations are valid and subsisting.

- Applicant Acknowledges

4. Long before Applicant’s filing, Opposer has used the VS marks in interstate commerce on or in connection with clothing, personal care products, and retail store services.

- Applicant Denies

5. Samples of the VS Marks in connection with Class 3 personal care products are annexed hereto as Exhibit B.

- Applicant denies

6. Upon the introduction of Opposer's VS Marks on the market, and continuously thereafter, Opposer's marks have become and are now widely known and famous, and recognized by the relevant consumers as the means by which Opposer and its products and services, and their source and origin identified.

- Applicant denies

#### APPLICANT'S MARK

7. Applicant is listed in its application as a Canadian corporation, with a principal place of business of 4022 Vendome Avenue, Montreal, Canada H4A 3N1.

- Applicant acknowledges

8. Applicant filed an application on April 6th, 2010, to register the mark V&S (serial No.85/007,380) which was published on April 5th 2011 for "organic hair care and skin care products, namely, shampoo, conditioner, styling creams, hair gels, hair sprays, skin water toners, bath salts, face and body creams, and skin moisturizers" in International Class 3.

- Applicant acknowledges

9. This application is based on an intention to use the mark in United States commerce.

- Applicant acknowledges

10. Upon information and belief, Applicant is actually an individual, and her corporation is Vitamine & Sea.

- Applicant denies

11. Upon information and belief, the mark is currently used on the internet in connection with Vitamine & Sea; located at <http://vitamineandsea.com>.

- Applicant acknowledges

12. As seen on the website, Applicant's V&S mark looks similar to how Opposer uses its VS Marks.

- Applicant denies

13. Applicant's adoption and use of V&S is without Opposer's license or permission.

- Applicant acknowledges

14. Applicant's use or registration of V&S will damage Opposer.

- Applicant denies

**FIRST CLAIM FOR RELIEF**  
(Likelihood of Confusion)

15. Opposer repeats and realleges the allegations set forth in Paragraphs 1 through 14 as fully set forth herein.

- Applicant denies

16. There is no issue as to priority. Opposer began using its VS Marks at least as early as September, 1991.

Opposer's marks were first used long before Applicant filed the V&S Application on April 6th, 2010.

- Applicant denies

17. Opposer has developed good will and fame of inestimable value in its VS Marks and such fame was established before Applicant filed its intent to use application for V&S.

- Applicant denies

18. Applicant's V&S mark is confusingly similar to Opposer's VS marks because of use of the identical letters. The "ampersand" between the V and the S in Applicants mark does not differentiate the marks.

- Applicant denies

19. Applicants V&S mark is confusingly similar to Opposer's VS marks because it is used on goods that are identical and/or related to the goods covered by Opposer's VS Marks.

- Applicant denies

20. Applicant's V&S mark is confusingly similar to Opposer's marks because, upon information and belief a consumer will likely believe that these goods under the V&S marks originate with or are endorsed by Opposer, when in fact, they are not.

- Applicant denies

21. As a result of Opposer's longstanding use and promotion of its VS marks, they have acquired secondary meaning and have become distinctive of clothing, personal care products, and retail store services, and have become associated in the minds of the relevant consumers exclusively with Opposer.

- Applicant denies

22. The close resemblance of Applicant's mark to Opposers's VS marks will cause confusion or mistake or deceive persons by creating the erroneous impression that Applicant's goods originate or come from the same source as Opposer's goods, or are endorsed, sponsored, licensed, associated or otherwise connected to Opposer. Such confusion would irreparably harm and damage Opposer because Opposer has no control over the nature or quality of the goods provided or produced by Applicant under its V&S mark.

- Applicant denies

### **SECOND CLAIM FOR RELIEF** (dilution)

23. Opposer repeats and realleges the allegations set forth in paragraphs 1 through 22 as fully set forth herein.

- Applicant denies

24. As a result of Opposer's longstanding and continuous use and registration of its VS marks, the extensive advertising and promotion of VS branded merchandise nationwide, and because of the superior quality of such merchandise, Opposer's VS marks have become well known and famous marks, representing goodwill of inestimable value to Opposer.

- Applicant denies

25. Applicant's use and registration of V&S is likely to, does, and will dilute, blur and erode the distinctiveness of Opposer's famous VS marks, and/or damage the goodwill associated with them.

- Applicant denies

26. By reason of the foregoing, Opposer will be damaged by applicant's registration of V&S.

- Applicant denies

WHEREFORE, Applicant Yael Mamroud on behalf of 9226-8754 Quebec inc. (doing business as Vitamine and Sea) respectfully requests that the Opposition to Application Serial No. 85/007,380 in International Class 3 for (Organic hair care and skin care products, namely, shampoo, conditioner, styling creams, hair gels, hair sprays, skin water toners, bath salts, face and body creams and skin moisturizers), due to its frivolous, erroneous, and intentionally misleading nature and content be denied and that registration of the designation of V&S, as a trademark to Applicant be received and granted.

DATED.. Montreal, Quebec, Canada. October 10th, 2011.

VITAMINE & SEA

by,           /Yael Mamroud/Cummins/1234/            
                    Yael Mamroud

(applicant for 9226-8754 Quebec Inc.  
DBA Vitamine & Sea)  
B-345, 1001 Rue Lenoir  
Montreal, Quebec  
Canada  
H4C 2Z6

## **Certificate of Service**

Please be advised that I, Yael Mamroud, have requested that a copy of this Answer to the Opposition by Victoria Secret Brand Management Inc. be acknowledged by Heather Heft via Email (at [hheft@yeellp.com](mailto:hheft@yeellp.com)) as an official certificate of service sent by Vitamine & Sea and that it be accepted and received as such.

I have offered a reasonable delay to consider my request. Should my request to communicate required documentation to Opposer be denied via Email by the offices of Donovan & Yee-LLP, a copy of the Answer to Opposition will be sent to Heather Heft at 161 Avenue of the Americas, Suite 1201, New York, NY 10013, immediately thereafter by registered mail.

Thank you,

/Yael Mamroud/Cummins/1234/

Yael Mamroud